CTC Special Meeting

July 22, 2003

Synopsis of Significant Actions Impacting the Current State Of Transportation Funding

Transportation program – Background

The State transportation program consists of the State Transportation Improvement Program (STIP), the Traffic Congestion Relief Program (TCRP) and the State Highway Operation and Protection Program (SHOPP).

The STIP is the ongoing biennial program adopted by the California Transportation Commission from projects nominated by the state's regional transportation planning agencies and Caltrans. The TCRP is the one-time program of projects designated by the Governor and Legislature through the enactment of the Traffic Congestion Relief Act of 2000 (AB 2928). The SHOPP is the major funding mechanism to finance major rehabilitation and safety improvements on the state highway system.

The 2002 STIP totaled $7.2 billion for transportation capital improvements over the 5-year period from FY 2002-03 through FY 2006-07. The number of projects selected is intended to match available revenue as outlined in the five year Fund Estimate adopted by the commission.

The 2004 STIP, which will be adopted in June 2004, will extend the STIP period out to FY 2008-09, based on the Fund Estimate scheduled for adoption in August 2003. The STIP is funded from three sources:

- The State Highway Account (SHA) includes revenues from State and federal gasoline taxes and weight fees. Currently, motorists pay a total of 36 cents (18 cents state and 18 cents federal) in per gallon motor vehicle fuel taxes. The SHA funds State highway operations, maintenance, and rehabilitation work, with the balance dedicated to the STIP.
- The Public Transportation Account (PTA) is a designated trust fund for planning and mass transportation purposes, with revenues derived principally from the state sales tax on gasoline and diesel fuels.

- The Transportation Investment Fund (TIF) represents revenues from the state sales tax on gasoline.

The TCRP, unveiled in June 2000, commits $4.9 billion to 141 specific projects identified in legislation, with funding originally to be provided through FY 2005-06, but now extended to FY 2007-08. All TCRP projects are funded through the Traffic Congestion Relief Fund (TCRF) as follows:

- $1.5 billion from the State General Fund in FY 2000-01 (including $400 million in addition to the TCRP for local road maintenance and $5 million for the High Speed Rail Authority),
- $500 million from the state sales tax on gasoline in FY 2000-01, and
- $3.313 billion to be transferred from the TIF, at the rate of $169.5 million per quarter over 5 years, originally from 2001-02 through 2005-06 and now from 2003-04 through 2007-08.

2001-02 Budget and TCR Refinancing Plan

As part of its effort to balance the state budget, the Legislature approved the TCR Refinancing Plan of AB 438, the transportation trailer bill for the 2001-02 Budget Act. AB 438 borrowed or delayed over $4.6 billion in transportation funds, including $1.16 billion in STIP funding. This initial borrowing was accomplished without delaying existing STIP or TCRP projects. The borrowing did mean, however, that the availability of $1.16 billion for new STIP projects was delayed by several years.

AB 438 accomplished its borrowing through the following specific actions:

- It suspended implementation of the TIF for two years so that the state sales tax on gasoline would be dedicated for transportation for the 5-year period from 2003-04 through 2007-08, rather than from 2001-02 through 2005-06. This retained about $2.35 billion for the General Fund in 2000-01 and 2001-02. Aside from its effect on the TCR program, this also delayed funding that would otherwise have gone to the STIP, in effect borrowing about $350 million in STIP funding from FY 2000-01 and FY 2001-02 and repaying it in FY 2006-07 and FY 2007-08.

- It retained the local subvention program on the original schedule, funding it during the 2-year suspension of the TIF with SHA funding. This was another $350 million draw on the SHA, repaid by having the SHA receive 80% rather than 40% of the TIF balance in FY 2006-07 and FY 2007-08.

- It authorized money in the TCRF derived from the General Fund (up to $1.5 billion) to be loaned back to the General Fund through the annual Budget Act, with loans to be repaid by June 2006. The 2001-02 Budget actually transferred $238 million from the TCRF to the General Fund. The 2002-03 Budget transferred another $1.045 billion to the General Fund.

- To backfill for the TCR program, it authorized loans of $280 million from the PTA and $180 million from the SHA to the TCRF, with any SHA loans to be repaid by June 2007 and any PTA loans to be repaid by June 2008. The 2001-02 Budget implemented loans of $180 million from the PTA and $180 million from the SHA. The 2002-03 Budget added the other $100 million from the PTA.

2002-03 Budget and SB 1834

The transportation fund borrowing authorized in the AB 438 TCR refinancing plan was taken into account in preparing the 2002 STIP. However, SB 1834 (2002), the transportation trailer bill for the 2002-03 Budget Act, authorized the borrowing of another $647 million to fill the General Fund deficit, again with the stated intent of doing so without delaying transportation projects. This new borrowing is above and beyond the level of borrowing that the Commission assumed in adopting the 2002 STIP Fund Estimate. Despite the intent of the legislation, these additional borrowings will lead to delays in funding for current projects unless a sufficient number of projects are delayed for other reasons. Among SB 1834's specific provisions:

- It increased the authority to make loans from the SHA to the TCRF through the annual Budget Act from $180 million to $654 million, an increase of $474 million. The $474 million increase was subject to repayment from the General Fund, with interest, by June 2007. The 2002-03 Budget included the $474 million in new borrowing.

- It authorized the Director of Finance, outside the Budget Act, to order a direct loan of $173 million from the SHA to the General Fund, under the terms of Article XIX of the California Constitution. This loan is to be repaid with interest by June 2005.

- It allowed the Director of Finance, outside the Budget Act, to authorize short-term loans from the General Fund to provide adequate cash for costs funded from the SHA. This would provide a backstop for loans out of the SHA, and the repayment of any short-term loan from the General Fund would become the first obligation on any revenues deposited into the SHA.

Proposition 42

Proposition 42, approved by California voters on the March 2002 ballot, requires that all revenue generated by the sales tax on motor vehicle fuel beginning in FY 2008-09 be dedicated for transportation uses only. Proposition 42 eliminated the June 2008 sunset date for the TIF and permanently dedicated the revenues from the sales tax on gasoline to the purposes already identified in statute. Beginning with FY 2008-09, no further funding would be transferred to the TCRF for the TCR designated projects, and all TIF revenues would be divided by formula, with 40% for subventions to cities and counties for road maintenance and repairs, 40% for the STIP, and 20% for transfer to the PTA. With half of the PTA augmenting the STIP, one-half of all TIF revenues would accrue to the STIP.

Another effect of Proposition 42 was to establish a constitutional threshold to suspending transfers from the General Fund to the TIF or using TIF revenues for other purposes.

Near Term Cash Flow Issues

The Commission's adoption of the 2002 STIP was made in conformity with the year-by-year programming capacity identified in the 2002 STIP Fund Estimate. It estimated revenues under existing law and deducted expenditures for prior commitments. It further assumed that the SHA cash balance would not fall below a "prudent cash reserve" of $140 million. Recognizing that a project commitment made in one year will require a cash drawdown over multiple years, the Fund Estimate also translated cash balances into program capacity, the capacity to make new project commitments in each fiscal year. The Commission's STIP adoption, in fact, programmed somewhat less than the identified capacity for the first year (FY 2002-03), making up the difference in later years.

The Commission can identify the following major deviations from the adopted Fund Estimate that could contribute to a cash flow shortage:

- Added borrowing from the State Highway Account authorized in connection with the 2002-03 Budget Act. This includes a $173 million loan to be repaid by June 2005 and a $474 million to be repaid by June 2007. These loans are above and beyond the level of borrowing that was assumed for the 2002 STIP
- Reduced weight fee revenues as a result of the Commercial Vehicle Registration Act of 2001 (SB 2084). Caltrans reports that experience to date indicates a revenue reduction of about $160 million per year.

In June 2002, the Commission asked the Department for an updated two year cash forecast.

In December 2002 the Department presented a cash forecast that projected a major deficit in the State Highway Account. On the basis of that forecast the Commission suspended all allocations except for safety, emergency and seismic retrofit. They further directed the department to refine their base assumptions in that cash forecast.

The Department in March 2003 presented a revised cash forecast for the State Highway Account, proposing that the Commission allocate over the course of the next 18 months up to $1.8 billion in projects between the STIP and SHOPP without ending FY 3/4 in a deficit situation. A decision was made to develop 18 month allocation plans for the STIP and the SHOPP with $600 million dedicated to the STIP and $1.2 billion dedicated to the SHOPP.

At the April 2003 Commission meeting, it was decided that because of the state of the economy and the need to provide some economic stimulus, the $600 million dedicated for the STIP would be accelerated as part of the FY2/3 allocation plan. The 18 month SHOPP allocation plan would allow for $400 million in FY02/03 and $800 million in FY03/04. This would leave the $800 million in SHOPP as a backstop in case something proved the cash forecast to be wrong.

In June 2003, the Commission heard the Department's updated 12 month cash forecast and a projection for FY04/05. In summary the department told the commissioners that after factoring in all of the allocations from the FY 02/03 and 03/04 allocations plans that they would end the FY03/04 with a $52 million deficit. This was based on several changed assumptions that included vehicle weight fees not being corrected this year. The cash forecast also assumed that transfers from the Highway User Tax Account to the State Highway Account would continue to happen and most importantly that the Department would be able to borrow from the General Fund on a short term basis to meet cash flow needs.

On that same day of the Commission meeting in June, the Controllers office announced that it was no longer transferring the revenue accruing in the Highway Users Tax Account (HUTA) to the State Highway Account per Streets and Highways Code Section 2108 without an enacted budget. The Controller also announced that HUTA transfers to cities and counties will also be delayed pending enactment of the budget.

On July 3, 2003, the Bureau of State Audits released its report that documented the impact of the loans from the State Highway Account to the General Fund and Traffic Congestion Relief Fund and the resulting project delays.

On July 10^{t} the Department released a warning letter to the Contractor's Community to tell them that unless there was a budget passed before July 20 that they could expect to receive no payment for any work conducted after that.

On July 16 the Department sent a letter to the Chair of the Commission stating that after July 20 contractors would be faced with either continuing to have their crews work without assurance of timely payments from the state or to request that their projects be suspended. The letter also stated that there were costs associated with both of these options and that it may become necessary for the Commission to rescind allocations to cover these costs. The letter also stated that the Department of Finance was unable to authorize any general fund loan given a lack of general fund resources and an enacted budget for FY03/04.

On July 18 the Chair of the Commission received another letter from the Department which said that through a series of actions the department had temporarily averted the need to suspend work on large numbers of construction projects and to incur the impacts and costs of such suspensions. Those actions included:

- Some contractors and sales tax measure agencies agreeing to temporarily provide funds to continue construction on their projects.

- Cities and counties agreeing to use their local funds first on contracts that are funded partially by the local agencies rather than proportional shared funding on each dollar expended.

- Borrowing local obligation authority from cities and counties in order to help cover cash flow by using it to cash federal eligible expenditures previously funded with state only cash.

- Delaying bid opening of advertised projects and suspending approximately 30 recently awarded contracts.